

In the Matter of Merchant Mariner's Document No. Z-61383-D1 and all
other Licenses, Certificates and Documents
Issued to: FRANK RAMIREZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

801

FRANK RAMIREZ

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 14 July 1953, an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania, revoked Merchant Mariner's Document No. Z-61383-D1 issued to Frank Ramirez upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Refrigerating Engineer on board the American SS PANAMA under authority of the document above described, on or about 24 January 1949, while said vessel was in the port of New York, he wrongfully had in his possession certain narcotics; to wit, cocaine.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by nonprofessional counsel of his own choice and he entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and counsel for Appellant made a statement in mitigation. Counsel submitted that Appellant had paid for his crime by spending two years in jail and that further punishment by the Coast Guard would be depriving a seaman with an unblemished record of his livelihood and his ability to support his family. Counsel also entered into the record numerous letters attesting to Appellant's reliable work and good character.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea to the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-61383-D1.

The appeal from this order of revocation was completed upon receipt of counsel's letter of 18 January 1955. It is urged that:

POINT I. Appellant's prior history is excellent. He has sailed more than 32 years without any charges having been made against him. Appellant has received numerous letters of recommendation from various employers.

POINT II. Appellant's record since his infraction is excellent. As a result of the incident on 24 January 1949, Appellant was arrested on 5 March 1951 and was convicted before a United States District Court on his plea of guilty to the offense of unlawfully, wilfully and knowingly conspiring to receive, possess, conceal and facilitate the transportation and concealment of narcotics. The District Court judge sentenced Appellant to three years imprisonment and subsequently reduced the sentence to two years. Appellant is over 60 years of age and has a wife and two children to support.

CONCLUSION. Appellant has been sufficiently punished for his one mistake. It is respectfully requested that the order of revocation be suspended for as long as Appellant is not guilty of misconduct.

APPEARANCES: Messrs. Golenbock and Komoroff of New York City by
Irving Komoroff, Esquire, of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 24 January 1949, while Appellant was serving as Refrigerating Engineer on board the American SS PANAMA and acting under authority of his Merchant Mariner's Document No. Z-61383-D1, he wrongfully had a quantity of cocaine in his possession.

Since Appellant was convicted by a Federal court for this same offense, the judgment of conviction is conclusive in this proceeding in accordance with 46 C.F.R. 137.15-5(a). After a seaman has been found guilty of any narcotics offense, it has been the consistent policy of the Commandant to revoke the seaman's documents despite his prior clear record and the personal hardship resulting from this action. The order of the Examiner must be sustained in conformance with this policy which is now implemented by regulation. See 46 C.F.R. 137.03-1.

ORDER

The order of the Examiner dated 14 July 1953 at Philadelphia, Pennsylvania, is
AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 26th day of April, 1955.